

WHITE PAPER

ON

WASHINGTON'S GROWTH MANAGEMENT ACT

AND WSDOT PLANNING AND ENVIRONMENTAL

ASSESSMENT REQUIREMENTS

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Executive Summary

In early 2003, the State of Washington Department of Transportation (WSDOT) and the State Department of Community, Trade and Economic Development (CTED) began a collaborative effort to explore the relationship between the State Growth Management Act (GMA) and WSDOT transportation planning. The intent of this collaboration was to assist WSDOT in identifying how to justify that local growth management plans and development regulations could satisfy federal agency requirements for the identification of indirect impacts and cumulative effects analysis of major transportation projects, as required through the NEPA process.

The White Paper explores the relevance of the following GMA related topics to Transportation Planning:

- Natural resource lands and critical areas;
- County-wide planning policies;
- Designation of urban growth areas;
- Comprehensive plan development;
- Land use element;
- Transportation element;
- Capital Facilities element;
- Shoreline master program;
- Development regulations;
- Concurrency;
- SEPA analysis.

The recommendations include ways that WSDOT might consider utilizing locally generated information to assist with NEPA and ESA compliance and other permitting processes.

This White Paper also includes an Appendix section that includes applicable Hearings Boards decisions and references to state law.

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1.0 Problem Statement

Washington State Department of Transportation (WSDOT) incorporates local comprehensive plans in transportation planning decisions as part of developing the purpose and need for the project. The Growth Management Act requires that state agencies comply with the local comprehensive plans and development regulations.

During the environmental review phase of transportation projects [National Environmental Policy Act (NEPA), State Environmental Policy Act (SEPA), and Endangered Species Act (ESA)], some federal agency staff disagree with WSDOT's position that transportation projects do not *cause* growth. WSDOT maintains that, consistent with the Washington State Growth Management Act and local comprehensive plans, highway construction projects reinforce local decisions by concentrating growth in the urban area, rather than promoting sprawl.

This argument occurs in large part because federal agencies do not recognize the validity of local land use planning under the Growth Management Act (GMA), nor do federal agencies participate in the State Environmental Policy Act (SEPA) process. Thus transportation project environmental documents (NEPA Environmental Assessments and Environmental Impact Statements) are the primary venue where these issues are raised. As a result, WSDOT is asked to address issues that are either out of its control or beyond the scope of the individual project.

1.1 Critical Issue

At the root of this problem statement is a governance issue: Local governments determine strategies to address population growth and land use, including the role, appropriateness and siting of transportation facilities (except for facilities and services of statewide significance). Those local plans undergo environmental review through SEPA. WSDOT project level environmental review should not have to revisit those local determinations.

This paper summarizes key elements of the Growth Management Act, including:

- The information available through local planning processes, and
- The types of decisions made through the planning process and its relevance to transportation.

It concludes by offering recommendations to clarify the connections between (and maximize the value of) locally developed information to the WSDOT planning and environmental review and approval process under NEPA and ESA.

2.0 Growth Management Act – Requirements, Standards and Guidance

The Growth Management Act, adopted in two steps in 1990 and 1991, was an outgrowth of recommendations from the Growth Strategies Commission appointed by Governor Gardner in 1989. In

1990, the Legislature found “uncoordinated and unplanned growth, together with a lack of common goals ... pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by the residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning” [RCW 36.70A.010]. This is the foundation for the Growth Management Act.

The GMA is the framework for local land use planning and development within the state of Washington. The GMA is based on local flexibility to achieve statewide goals of protecting the environment and reducing sprawl.

All jurisdictions, regardless of the population, are required to identify and protect natural resource lands and critical areas. The GMA requires those jurisdictions meeting the population requirements of the GMA to plan fully under the Act [RCW 36.70A.040]. In addition, counties, regardless of their population may opt into the GMA. Currently 29 of the 39 counties and the jurisdictions within those counties are fully planning under the Growth Management Act. These jurisdictions are required to review, at least every ten years, their designated urban growth areas (UGA) and the densities permitted within the UGA to accommodate the urban growth projected to occur in the county for the next 20 years [RCW 36.70A.130].

In addition, cities and counties are required to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the GMA according to the following schedule, then every seven years thereafter:

On or before December 1, 2004	On or before December 1, 2005	On or before December 1, 2006	On or before December 1, 2007
Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties	Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties	Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties

3.0 Required Components of a GMA Comprehensive Plan

The general process for comprehensive plan adoption requires first, the identification and protection of natural resource lands and critical areas (Section 1.1); second, the development of county-wide planning policies to set a more detailed framework for county-wide planning (Section 2.1); third, the identification of the urban growth areas (Section 3.1); fourth, the development of the comprehensive plans (Section 4.1) and, finally, the implementation of the comprehensive plans through development regulations (Section 5.1).

A fundamental principle throughout the development of comprehensive plans is an extensive public process, which is required to be early and continuous. Public participation, coupled with broad discretion, enables local jurisdictions to develop comprehensive plans that are a true reflection of their communities.

The Growth Management Hearing Boards (GMHBs), the three boards with quasi-judicial authority to adjudicate compliance with the GMA, and the Washington State Appellate Court have consistently supported the primacy of local jurisdictions to develop and enact comprehensive plans based on the community’s vision and specific circumstances (see Appendix A).

The GMA has fourteen planning goals local jurisdictions are required to consider to guide the development and adoption of comprehensive plans (Section 4.1) and development regulations (Section 5.1). The goals are not in any order of priority and, in many places, these goals directly compete with each other (see Appendix B). The following ‘core substantive mandates’ are revealed when the goals of the GMA are read together:

- Environmental critical areas must be designated and protected.
- Natural resource lands of long-term commercial significance for agriculture, forest products, forest products and mining interests must be designated and protected.
- New growth must be concentrated in urban growth areas that are contiguous with existing urbanized areas and that meet other specified standards.
- New development may not be allowed unless adequate transportation facilities and certain other public facilities will be available concurrently with development.
- Counties and cities may not exclude regionally essential public facilities and must accommodate affordable housing.
- Counties and cities must provide early and continuous opportunities for public participation when developing and adopting comprehensive plans and development regulations. (WSOAG, 2002)

4.0 Steps to Develop a Comprehensive Plan

As part of the requirements within the GMA, local jurisdictions can also obtain guidance from Washington State Department of Community, Trade and Economic Development (CTED) and other state agencies (See Appendix C). The federal agencies have virtually no local agency contact for comprehensive plan development.

4.1 Identifying and Protecting Natural Resource Lands and Critical Areas

The GMA requires critical areas be designated and protected before other planning requirements are undertaken to preclude the designation of critical areas as suitable for urban development and to prevent irreversible environmental harm (WSOAG, 2002). In addition, the GMA requires the identification and conservation of natural resource lands to protect their continued use as natural resource industries from incompatible adjacent uses and inappropriate conversions. All counties and the jurisdictions within the counties are required to protect critical areas and natural resource lands regardless if they are fully planning under the GMA.

The *Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas* [WAC 365-190] provide extensive substantive guidance to local governments as to how to identify, classify, and designate critical areas and natural resource lands. It is intended for the guidelines to be the minimum that apply to all jurisdictions, but allow for regional differences [RCW 36.70A.050(3)]. They include expanded definitions, procedural recommendations, and references to pertinent statutes and rules adopted by other agencies (WSOAG, 2002).

Although the *Minimum Guidelines* are not binding on local governments, counties and cities must consider them when preparing and adopting development regulations to classify and designate critical areas or natural resource lands. The courts and the Growth Management Hearings Boards look to the *Minimum Guidelines* when interpreting the GMA’s requirements and determining whether a local government has complied with those requirements (WSOAG, 2002).

4.1.1 Natural Resource Lands Classification Guidance

Natural resource lands under the GMA are defined as: agricultural lands, forest lands, and mineral lands [RCW 36.70A.170]. Natural resource lands are protected to ensure the long-term viability of the

commercial use of the lands. Washington State is rich in natural resource industries and the Legislature acknowledged this when requiring their designation as one of the first steps in complying with the GMA for all counties.

In addition to the resource specific recommendations listed in Appendix D, WAC 365-190 recommends jurisdictions consider the combined effects of the following characteristics before classifying natural resource lands:

- Proximity to population areas and the possibility of more intense uses of the land
- Availability of public facilities and services
- Tax status
- Relationship or proximity to urban growth areas
- Predominant parcel size
- Land use settlement patterns and their compatibility with agricultural practices
- Intensity of nearby land uses
- History of land development permits issued nearby
- Land values under alternative uses
- Proximity of markets.

The Central Puget Sound GMHB and the Washington State Supreme Court have both held that the GMA imposes an “agricultural conservation imperative,” (WSOAG, 2002). Once lands are designated as natural resource lands, substantial evidence needs to be provided to ‘de-list’ a land from the natural resource designation.

4.1.2 Critical Area Classification Guidance

There are five critical areas identified for protection within the GMA: wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat areas [RCW 36.70A.030(5)]. The critical areas are protected for different reasons because they either pose a risk to human health and property or they serve an important ecological purpose. Detailed guidance is found within Appendix E.

In designating and protecting critical areas, jurisdictions must comply with three interrelated requirements. They must include the ‘best available science’ (BAS) in developing policies and development regulations; they must give ‘special consideration’ to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and they must adopt development regulations (Section 5.1) that protect the ‘functions and values’ of critical areas [RCW 36.70A.172(1)].

The Washington State Court of Appeals ruled on the use of BAS and determined that it must be included in the record and substantively considered in the development of critical area policies and regulations (Settle, 1999). “If a local government fails to incorporate, or otherwise ignores the best available science, its policies and regulations may well serve as the basis for conditions and denials that are constitutionally prohibited.” [HEAL v. Central Puget Sound Growth Management Hearings Board, Wn. App. 533, 979 P.2d 864 (1999)]

The Growth Management Act Working Group is working with the Legislature to provide a definition of BAS that will provide clarity and predictability while not reducing the levels of protection to critical areas.

Relevance to Transportation

Designating and classifying natural resource lands and critical areas constrain a jurisdiction’s ability to accommodate the assigned population. After these designations are made, difficult decisions must be made in order to determine how to accommodate population growth and to preserve and protect both the critical areas and natural resource lands within a county. These decisions include balancing the intensity of development and the standards used to protect the critical areas.

There are a number of issues a jurisdiction must consider when creating development regulations to protect natural resource lands and critical areas:

- Ensuring the record shows consideration for the *Minimum Guidelines* in the development of policies and development regulations;
- Including and substantively considering the best available science in the record; and
- Substantially supporting the de-designation of any resource lands in the record.

These issues are important to transportation because they point to a certain ‘standard’ that must be met for the protection of natural resource lands and critical areas. Although CTED does not have the authority to ‘certify’ local plans, the GMA and the case law supporting the GMA provides local jurisdictions with significant requirements that may help the WSDOT in resolving issues with federal agencies regarding the level of analysis completed by local jurisdictions and their protection of critical habitat.

The importance of the designation and protection process to transportation projects include complying with local jurisdictions’ development regulations created to protect the functions and values of the critical areas. Transportation projects consistent with the local comprehensive plans will protect natural resource lands and critical areas, furthering the goals of the GMA to protect the natural environment. When an indirect or cumulative effect of a transportation project is identified, WSDOT can point to the local jurisdictions’ critical area ordinances developed using the best available science to protect the functions and values of critical areas, for example the incorporation of special consideration for the protection of anadromous fisheries.

Although there is not an ‘environmental element’ required as part of the local comprehensive plans, many jurisdictions have developed a separate environmental element or use the Land Use Element to provide discussion on environmental issues. In addition, a discussion of the analysis used in the development of the comprehensive plan takes place within the ordinance, adopted by the elected officials, which also includes the supporting analysis completed by the staff and the planning commission. This information could be tracked back for transportation project-specific environmental review.

4.2 Develop County-wide Planning Policies

County-wide planning policies (CWPPs) are policy statements, developed at the county level, to establish a county-wide framework from which the comprehensive plans within the county is developed. The GMA sets the foundation for CWPPs by stating that the role of cities is to provide urban services and the role of counties are to provide regional services. The GMA requires several components be included within CWPPs including the designation of urban growth areas and siting public capital facilities of a county-wide or statewide nature, including transportation facilities of statewide significance as defined in RCW 47.06.140 [RCW 36.70A.210]. In addition, multi-county planning policies are required for contiguous counties with populations of 450,000 or more [RCW 36.70A210(7)]. Currently only Pierce, King, and Snohomish counties qualify for this requirement.

Relevance to Transportation

While the purpose of the CWPPs is to set the framework for local comprehensive plans, decisions made during this process can have significant implications during the land use development stages. For example, the process developed for siting essential public facilities can influence permit streamlining for transportation projects. Some counties, within their CWPPs, have set up ad hoc committees to review permits, siting criteria, fiscal impact analysis and other issues for essential public facilities. These processes may, or may not, facilitate permit streamlining. WSDOT could influence permit streamlining by encouraging counties to adopt WSDOT permit streamlining processes within their CWPPs. (see recommendation 5.1.15)

4.3 Designating Urban Growth Areas

Two fundamental principles underlie the requirement to designate Urban Growth Areas (UGAs): 1) local governance must be transformed so cities, not counties, are the primary providers of urban governmental services; and 2) urban development should be compact rather than sprawling (WSOAG, 2002). The GMA is structured based on a fundamental statement about the relationship between growth and development. Population growth is driven by factors mostly beyond the control of local jurisdictions. These are demographic factors governing births and deaths and economic factors governing in-migration. Development is a response to growth and is appropriately managed by the planning process. Growth management is all about influencing land and infrastructure development to avoid, minimize, and mitigate the impacts of growth.

The counties establish UGAs, in coordination with the cities, by determining the densities required to support the 20-year population projections made by the Washington State Office of Financial management (OFM). OFM provides counties with high, medium, and low population projections. The counties choose a population projection then allocate this population to the cities within the county according to the established policies developed within the CWPPs.

When establishing UGAs, “a local government must examine and consider locating urban growth first in areas characterized by existing growth with existing public facilities and services. Only after such examination and consideration should a local government then examine the second area of characterization by urban growth to be later served adequately by existing public facilities and services and any additional needed public facilities and services.

Only after exhaustive consideration of the first two locations should a local government place urban growth in the remaining portions of IUGAs or UGAs.” *C.U.S.T.E.R v. Whatcom County* 96-2-0008 (FDO 9-12-96) Local jurisdiction can exercise local discretion in setting the UGA by determining household size, the residential density, the location and the land market supply factor (Perkins, 2002).

The Hearings Board has also ruled on the development of land within the UGAs, “Land use designations within a UGA must allow for urban development regardless of the rural character a parcel of land may have today.” [*Aagaard, 4311c*, FDO, p. 17] The Boards have also acknowledged that local jurisdictions may use locally developed criteria in setting the UGAs, but they must also follow the criteria laid out in the GMA and they must ‘show their work’ as to how the UGAs were designated.

Relevance to Transportation

The designation of the UGAs is one of the strongest components of the GMA indicating where future population growth will occur for the next 20 years and where commercially significant resources lands and rural areas will be protected. Transportation projects consistent with the Land Use Element support concentrating population within the UGAs. The GMA required interim urban growth areas to be set by October 1, 1993, then finalized within three years. Since that time, only minor modifications to UGAs have occurred.

Decisions to allocate more or less population to various jurisdictions throughout a county can have a significant impact on the infrastructure needed to support the population, especially transportation facilities due to their linear nature. Population allocations change the way an area will be developed, the land uses assigned to the area, and the infrastructure needed. These decisions cannot be revisited on a project-by-project basis.

4.4 Develop Comprehensive Plan

Once the UGAs have been assigned the next step for a local jurisdiction is to develop the comprehensive plan. The GMA specifies several required elements of a comprehensive plan. These elements include: land use, housing, capital facilities, utilities, rural (for counties only), transportation, economic development, and parks and recreation. In addition, the Shoreline Master Programs are an element of the comprehensive plan.

A comprehensive plan is a combination of goals and policies used to guide development within a community. Under the GMA, the adoption of a comprehensive plan is no longer discretionary, but mandatory. A comprehensive plan is to be a statement of a county or city's vision for its future and a tool for achieving that future. It sets substantive standards and requirements with which development regulations, include zoning ordinances, must comply (WSOAG, 2002).

The GMA requires a comprehensive plan to contain a number of specific elements that determine the use and development of land and the expansion and extension of public facilities and services. The comprehensive plan must coordinate the provision of public services with private land development. The comprehensive plan must be developed with substantial public involvement and must be based on reliable data (WSOAG, 2002).

A comprehensive plan adopted under the GMA may not be ignored. It must be implemented by development regulations (Section 5.1) adopted together with the comprehensive plan. Counties and cities must 'perform their activities and make capital budget decisions in conformity with their comprehensive plans.'

Guidance within the WACs does not expect specific outcomes; it only provides guidance on the process for a local jurisdiction to determine its own outcome. Again the importance of local flexibility to achieve statewide goals is emphasized.

Local plans and development regulations are expected to vary in complexity and in level of detail provided in the supporting record, depending on population size, growth rates, resources available for planning, and scale of public facilities and services provided. In general, smaller jurisdictions will not be expected to engage in extensive original research, but will be able to rely upon reasonable assumptions derived from available data of a statewide or regional nature, or representative of jurisdictions of comparable size and growth rates [WAC 365-195-060].

The range of analysis for jurisdictions' comprehensive plans across the state varies. There are jurisdictions with staff and funding to develop original data and thoroughly analyze plans. Then there are many jurisdictions without a planning department. In many of these jurisdictions the city clerk is responsible for the day to day planning. These jurisdictions often rely heavily upon the work of state resource agencies, including model ordinances, mapping, technical and financial assistance. Often county and regional planning organizations can also assist smaller communities with transportation LOS information and other areas of technical (and sometimes) financial support.

4.5 Comprehensive Plan - General

The general process for all the required elements of a comprehensive plan is to set goals, inventory existing conditions, analyze problems and needs, develop alternatives, evaluate the alternatives, select an alternative, refine, implement the alternative, and review and update the alternative (See Appendix F for more guidance).

4.5.1 Land Use Element

The Land Use Element is the heart of the comprehensive plan. This element is completed first, and then the other elements are developed to implement and support the Land Use Element. The Land Use Element lays out the future location and development densities of the entire UGA and ensures protection of critical areas and natural resource lands.

Local jurisdictions designate the land use types within their jurisdiction and urban growth areas to accommodate the assigned growth for a 20-year planning horizon. The designation of land uses requires a local jurisdiction to first inventory existing land uses and other relevant existing conditions, including resource lands, critical areas, topography, and existing public facilities. Then the local jurisdiction analyzes problems and opportunities associated with the existing land uses and forecast land use needs. This includes an analysis of the vacant and underutilized land, land suitability, development potential and projected land use facility needs and the supply available, including the ability to support different land uses and densities given the constraints of public facilities. The designation of various land uses also requires an assessment of the necessary infrastructure to support it. The land use designations require extensive coordination, especially with regional transportation facilities (Appendix F).

Relevance to Transportation

The Land Use Element is where many significant decisions are made by local jurisdictions. These decisions, made through goals, policies, and expanded discussion, include how a jurisdiction will grow, where a jurisdiction will grow, all the land use types within a jurisdiction, and any policies regarding critical areas or natural resource lands. The Land Use Element will contain the vision the community has for itself, how it sees itself in the next 20 years, and the connections to the other elements of the comprehensive plan, including transportation.

WSDOT transportation facilities help to support the Land Use Element, which focuses urban growth within UGAs. Focusing growth within UGAs conserves lands outside the UGAs to protect natural resource lands and rural lands. Under rare occasions, a transportation facility may be proposed and built and not go through the local process i.e. legislative proposal. Under these circumstances, the facility may not be in support of a land use element and could support sprawling development by providing access to land not ready for development, or encourage pressure for jurisdictions to change land use and expand urban growth areas inconsistent with a comprehensive plan.

4.5.2 Transportation Element

RCW 36.70A.070(6) states, “a transportation element, ... implements, and is consistent with, the land use element.” There are a number of detailed requirements for a Transportation Element (See Appendix F). These include requirements to inventory existing facilities, assign levels of service, estimate the impacts of the proposed land uses, and specific actions and requirements to maintain adopted level of service standards for local roads. In addition, the plan is required to be consistent with the regionally adopted transportation plan.

Relevance to Transportation

The Transportation Element, in support of the Land Use Element, provides several key decisions including establishing the vision of transportation for the community, setting the level of service for transportation facilities, and establishing concurrency requirements for transportation facilities.

As part of defining the vision of transportation for a community, the community may assess the types of transportation opportunities currently existing and what opportunities the community would like to see in the future. A plan may include provisions for nonmotorized transportation, maximum roadway widths,

hierarchy of roads, and key roadway design features. Also a jurisdiction may find a certain level of congestion acceptable in some areas of the community. When proposing a transportation facility, it would be important to understand the values the community has about its transportation system and its vision for transportation within its community to ensure a project is meeting the comprehensive plan. Often, a visioning process is used at the beginning of the comprehensive plan update process and involves a community-wide survey of opinions regarding a variety of issues, that can include road and infrastructure improvements as well as transit issues.

One of the goals of the GMA is to ensure that changes in land use are supported by adequate facilities to serve the new development; this is called concurrency. A financial component of the Transportation Element is required showing how jurisdictions plan to finance the identified projects over the following six-year period. If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised or the need to prioritize projects based on the amount of funding available, will need to occur. As part of that discussion, land use assumptions may need to be reassessed to ensure that level of service standards will be met. The outcome of those discussions must be incorporated into the plan. This is the only reference within the GMA where the discussion of transportation directing land use occurs and it is only when adequate funding cannot be secured for projects.

In 1998, the Washington State Legislature passed Substitute House Bill 1487, which changed the way that GMA and state transportation planning interact. The bill requires local jurisdictions to include state owned transportation facilities within their plans. It also requires an estimate of the impact to these facilities based on the local Land Use Element. This is to assist the state in monitoring the performance of the facility as well as planning for improvements to the facility and assessing the impacts of land use assumptions on these facilities. In addition, this bill exempted state owned facilities from local concurrency requirements. This means state owned facilities do not have to be in place or have financing forecasted in the next six years for development to occur. Due to the nature of funding for transportation improvements, improvements to state facilities often take place in response to past growth. Again, the concern on the part of federal agencies that transportation projects induce growth may not be sound.

4.5.3 Capital Facilities Element

The Capital Facilities Element is an inventory of capital projects that support and implement the Land Use Element. Capital projects include: streets, roads, highways, sidewalks, street and road lighting system, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreation facilities, essential public facilities, such as airports and group homes, and schools. In addition, there is a financial component of the Capital Facilities Element to ensure the Capital Facilities Element is implementable.

An important decision affecting the development and character of land is designating a level of service for various infrastructure needs. Local jurisdictions may set level of service for water, sewer, and parks and are required to set level of service designation for transportation facilities. These designations will affect the timing and phasing of development in various areas of a community and will ultimately affect its character. The combination of level of service, impact fees, and priority of infrastructure development may be a way to help analyze cumulative and indirect effects of a transportation project.

Relevance to Transportation

The Capital Facilities Element is the ‘truth in planning’ element. Once jurisdictions have population assignments the Capital Facilities Element is used to assess whether or not the existing infrastructure will support the population allocation and the existing and future land use choices. A jurisdiction needs to determine if they can financially support the development and maintenance of the needed infrastructure to

support the land use choices. In addition, decisions need to be made as to how new infrastructure can be financed, through taxes over the entire jurisdiction, impact fees on new development, or some combination of the two.

Typically, jurisdictions know which areas will develop first based on current development, the logical extension of infrastructure and local knowledge of market factors. Transportation facilities being proposed for these new growth areas probably won't create a lot of indirect or cumulative impacts. If however, a transportation facility is being planned in an area where infrastructure is not currently available and development is more rural than urban, there may be a number of direct and indirect effects. Contacting the local jurisdiction as soon as possible in the transportation planning phase is critical to determine local conditions.

4.5.4 Shoreline Master Programs

Washington's Shoreline Management Act (SMA) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." In 1995, the SMA was added as one of the goals of the GMA. The local Shoreline Master Program (SMP) is considered one of the elements of the comprehensive plan and the regulations are considered part of the development regulations.

Recent legislation clarified that shorelines of the state are not critical areas because they are simply shorelines; however, they may include critical areas that need to be protected. The new legislation also requires local jurisdictions to incorporate a critical area component into the SMP for critical areas within the shoreline jurisdiction.

Relevance to Transportation

The most significant relevance of the shoreline regulations is obtaining permits for projects. Shoreline permits have an added level of process that includes review at the local level and review and/or approval of the permits by the Washington Department of Ecology. There are at times, significant delays in developing transportation projects because of the time it takes to obtain a shoreline permit. To expedite this process, an application for a shoreline permit should be coordinated with the local jurisdiction as soon as possible and submitted to Ecology in a timely manner.

4.6 Development Regulations

The final step in comprehensive plan development is the creation of development regulations to implement the comprehensive plan. Development regulations spell out the specific requirements a developer would need to abide by in order to obtain a permit for development. These development regulations include both regulations to protect critical areas, conserve natural resource lands, and regulations to implement the comprehensive plan through zoning regulations.

Development regulations specifically required under the GMA include: regulations to conserve natural resource lands, protect critical areas, designate interim urban growth areas, and specific written findings for both potable water and subdivisions. In addition, regulations to implement local jurisdictions' concurrency standards and regulations for identifying and siting essential public facilities are required.

Some typical permits required for a transportation facility from a local jurisdiction could include:

- Critical area compliance – either through a specific critical area permit or compliance with the critical area requirements through review of another permit and
- Shoreline permits – depending upon the jurisdiction's SMP; a permit could include a Shoreline Substantial Development Permit or Exemption, a Conditional Use Permit or a Variance.

- Weight restriction permit – permit may be needed depending upon vehicle weight in areas with soft surfaces that could be negatively impacted by heavy machinery or vehicles.
- Noise permit – the hours for construction may be limited by the jurisdiction’s noise ordinance.

4.7 SEPA Analysis

In 1972, the Washington State Legislature passed the State Environmental Policy Act (SEPA) to declare a state policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere; stimulate the health and welfare of man; and to enrich the understanding of the ecological systems and natural resources important to the state and nation [RCW 43.21C.010]. SEPA continues to be an important tool to assess the effects of growth and development both at the comprehensive planning level and the project permitting level. When used in conjunction with the development of the comprehensive plan, the choices made within the comprehensive plan can be thoroughly analyzed and assessed before decisions are reached.

Local jurisdictions use the SEPA checklist when reviewing nonproject actions (comprehensive plans and development regulations). The environmental analysis through SEPA analyzes several elements of the natural and built environment including earth, air, water, plants, animals, energy/natural resources, environmental health, noise, land and shoreline use, housing, aesthetics, light and glare, recreation, historic and cultural preservation, transportation, public services, and utilities. There is a supplemental appendix to the SEPA checklist for nonproject actions intended to facilitate the review of plans and other nonproject actions. While this additional section is intended to consider the issues associated with nonproject actions, it has not been an effective tool in this assessment. In many cases, the SEPA analysis is completed after the planning decisions have been made and is not a fully integrated component of the planning process, although the GMA encourages integration.

The Department of Ecology developed guidelines to assist local jurisdictions with integrating their comprehensive plans and SEPA analysis into an ‘integrated GMA document’ [WAC 197-11-220(5)]. One purpose of an integrated GMA document is to ensure that studies conducted early in the planning and environmental analysis process are available and useful throughout the planning and analysis process. Although early planning documents and environmental analyses, such as documents on concepts or plan elements, may serve specific purposes and are not each required to be comprehensive in scope, they should explain their relationship to the overall GMA/SEPA process that is underway and identify how cumulative impacts are being considered [WAC 197-11-228]. A good example of an integrated GMA document is the City of Spokane’s comprehensive plan. The City of Spokane evaluated three planning alternatives (current patterns, centers and corridors, and central city) and the impacts of each of these alternatives on the various elements of the environment identified through the scoping process. This format provided excellent information to the decision-makers on the cumulative impacts of the various alternatives and enabled them to choose an alternative.

The analysis completed at the comprehensive planning stage is not intended to replace project specific environmental analysis. Environmental analysis at the comprehensive planning stage is programmatic, broad-based and comprehensive. It does not look at the specific environmental impacts in detail that a particular project might have on the environment, but the overall impact of adopting the comprehensive plan. However, some of the environmental information may be referred to at the permitting stage and many of the development regulations are in place to mitigate the effects of development. As such, the required environmental analysis needed at the permitting stage may not be as extensive as the analysis that was used at the planning stage. This is the value of upfront environmental analysis.

Relevance to Transportation

SEPA analysis may be another avenue for transportation project management teams to trace back to decisions and trade-offs made in the local planning process. While the broad discretion afforded to local jurisdictions in completing SEPA may preclude this information from always being very detailed and expansive, in some cases, this information could be helpful in explaining how or why certain decisions were made and identifying the impacts of these decisions. For example, the City of Spokane, within its draft comprehensive plan/EIS, analyzed the impacts of the three alternatives on the various elements of the environment. This document provided the decision-makers with the necessary information for them to make an informed decision.

Jurisdictions then use development regulations to mitigate the environmental impacts identified through the SEPA process. Mitigation can range from standards to maintain the functions and values of a critical area to development standards to treat stormwater. In addition, specific mitigation can be conditioned at the project review stage through SEPA.

SEPA analysis varies from jurisdiction to jurisdiction depending upon the size of the jurisdiction, skills of the staff, and the complexity of the project. There are no specific standards for environmental review. The *Final Report of the Land Use Study Commission*, December 29, 1998, recognized this and recommended that procedural and substantive guidance for the environmental review of comprehensive plans and development regulations be developed to ensure that cumulative environmental impacts of plan decisions and subsequent implementation are analyzed and addressed. This recommendation was made in light of the range of analysis done at the planning stages and the guidance lacking to develop environmental information for planning purposes.

5.0 Summary and Recommendations

Local jurisdictions fully planning under the Growth Management Act have a number of statutory requirements in order to comply with the Act. “(Fully planning) GMA counties have an affirmative duty to accommodate the population growth allocated to them,” (Perkins, 2002). Fully planning counties are required to set urban growth areas, to identify and protect critical areas and natural resource lands, develop comprehensive plans with all the required elements, set land uses to accommodate the assigned growth, and develop infrastructure to support the comprehensive plan.

The Land Use Element of the comprehensive plan is central to protecting natural resource lands, critical areas, and the rural areas. Goals and policies within the Land Use Element are established constraining urban development within designated urban areas. Transportation projects consistent with the Land Use Element support the protection of the natural resource lands and critical areas by ensuring growth stays within urban areas. Transportation must support the Land Use Element.

The following suggested recommendations are ways WSDOT might consider utilizing locally generated information to assist with NEPA and ESA compliance and other permitting processes. The recommendations are grouped into the following areas: where to find local planning information; available information; available information that would need further analysis; and areas for further consideration.

5.1 Recommendations

Where to Find Local Planning Information

- 5.1.1. The decisions made within the planning process have been developed through a series of public hearings, work sessions, other public processes, staff reports, and adopting ordinances. Tracing

back the reasoning for certain land use designation decisions and the trade-offs then documenting the public process and information used in justification of the decision for NEPA or ESA compliance would greatly enhance the analysis.

- 5.1.2. Train WSDOT staff on where to locate planning information and how to incorporate these important decisions into permitting studies. Key decisions are made at the planning commission and city/county council public hearings. These meetings have agendas, minutes, staff reports and adopting ordinances with specific findings indicating reasoning for decisions. In addition, the public participation components will be included.

Available Information

- 5.1.3. Critical area ordinance based on best available science that also includes special consideration for anadromous fisheries should help to facilitate discussions with the Services to comply with ESA.
- 5.1.4. Regional planning organizations (Metropolitan Planning Organizations and Regional Transportation Planning Organizations) develop a considerable amount of forecast information for their region (county or multi-county). Much of the employment and population forecast information is developed by these organizations. Continue to work with these organizations to obtain this information.
- 5.1.5. Clark, Thurston, Pierce, Kitsap, King, and Snohomish counties completed Buildable Lands reports to ensure adequate land is designated within the urban growth areas for the assigned population and to ensure the strategies for accommodating this population are working. For these counties, this information will show valuable historical information. According to the GMA, these reports are to be updated every five years.
- 5.1.6. To help identify cumulative effects, the land use plan shows the 20-year build out. The various development regulations identify the type of uses expected and may indicate the development coverage of the parcels.
- 5.1.7. Planning departments of a local jurisdiction can provide an indication of development likely to occur. Also, the planning departments, with the addition of the building departments, can provide a listing of development (planning and building permits) in the past. Some of this activity may be projected into the future.

Available Information That Would Need Further Analysis

- 5.1.8. Identifying the transportation level of service (LOS) for an area within a jurisdiction would help to determine if a jurisdiction is directing growth toward that area or not. A high LOS with high impact fees could indicate that the area is a low priority for development; it could be a second growth area (urban reserve). On the other hand, an area with a low LOS and low impact fees could indicate an area is designated as a high priority for development. These designations could help WSDOT determine if a project is or is not causing any indirect effects.
- 5.1.9. Further analyze how local planning can be used to determine if a transportation project is part of a cumulative effect or is causing an indirect effect. The relationship between the transportation project should look at the following relationships:
 - Local comprehensive plan (does the WSDOT project implement and support the local land use element?);

- Location of the project (Is the WSDOT project within the urban core or at the edge of an urban growth area?);
- Determine if a project is located in an area that is likely to be developed in the short-term where available infrastructure is either available or planned for.(Contact the jurisdiction about this question); and
- An assessment of the rate at which a WSDOT transportation facility directly or indirectly causes land development or enables development (Is there additional access to vacant/underdeveloped lands, where are the locations of other urban services which would further facilitate development of vacant or underdeveloped lands, are there any other additional pressure to rezone areas or expand urban growth boundaries?).

Areas for Further Consideration

- 5.1.10. Further analyze issues surrounding concurrency and the affects of state facilities on local roadways. Would this information further support WSDOT's position of supporting local decisions, the local comprehensive plan and containing growth within UGAs?
- 5.1.11. Further analyze the types of information WSDOT needs to comply with the NEPA and the ESA and identify opportunities to use local information.
- 5.1.12. Analyze the gaps between the analysis completed at the local comprehensive planning level and the analysis needed to comply with the NEPA and the ESA.
- 5.1.13. Analyze the use of the local comprehensive plan horizon (20-years) as the 'reasonably foreseeable future' for cumulative effects analysis.
- 5.1.14. Analyze the possibility of using the local transportation improvement plan and the Capital Facilities Plan to help determine what is 'reasonably certain to occur' for cumulative effects analysis.
- 5.1.15. Analyze the possibility of incorporating WSDOT permit streamlining recommendations in county-wide planning policies. Such opportunities might include, for example, incorporating the 'One-Stop' permitting process and the use of the watershed-based approach to mitigation.
- 5.1.16. As part of the transportation facility development, analyze the possibility of incorporating a feedback loop of the variety of studies back to the local jurisdictions. Part of this feedback to the local jurisdictions could point out the concerns and challenges brought out through the permitting process. If there is a significant concern, the WSDOT should request that it be put on the planning docket for the following year especially if the concern will cause future permitting challenges.

Appendix A

Growth Management Hearing Board Decisions and Washington State Appellate Court Decision

“The responsibility to develop and adopt the comprehensive plan is with the local jurisdiction. The requirements within the Act provide substantial leeway and discretion on the local jurisdictions. Within a framework of certain state mandates and regional policies, the GMA leaves broad discretion for locally adopted comprehensive plans to reflect local choices. In general, the Board is to defer to policy choices of local jurisdictions. However, the Board must determine if policy choices of the local jurisdictions conflict with the clear policy mandates that the legislature stated in the GMA.” *Wenatchee Valley Mall Partnership, et al. v. Douglas County*, EWGMHB 96-1-0009, Final Decision and Order (Dec. 10, 1996).

“The Act requires protection of critical areas, and the county is given the opportunity to select the manner of that protection. Their choice is given great deference.” *Easy, et al. v. Spokane County*, EWGMHB 96-1-0016, Order on Compliance (Sep. 23, 1997).

“Each community is both given discretion and encouraged to create its own “vision of urban development.” This “community vision” is constrained in two ways. First, a community must provide adequate public facilities and services. Implementation of its plan may not decrease current service levels below locally established minimum standards. Second, sprawl is to be discouraged. This is the essence of the growth management process – a community taking responsibility for its future, developing a consensus for its future development, and checking to ensure its plan is feasible.” *Save Our Butte Save Our Basin Society v. Chelan County*, EWGMHB 94-1-0001, Final Decision and Order (Jul. 1, 1994).

“We find the reasoning of the Washington Appellate Court in *Diehl v. Mason County*, 94 Wn.App. 645, 972 P.2d 543 (1999) persuasive: “ Local governments have broad discretion in developing CPs (comprehensive plans) and DRs (development regulations) tailored to local circumstances. But this discretion is limited by the requirement that the final CPs and DRs be consistent with the requirements and goals of the GMA.” *Id.*, 94 Wn.App. at 651.

Appendix B

GMA Planning Goals

RCW 36.70A.020

- Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
- Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
- Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
- Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

RCW 36.70A.480

- For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020.

Appendix C

Local Jurisdiction Guidance for Comprehensive Plan Development

CTED has developed guidance within WACs (365-190, *Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas* and 365-195, *Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations*) and other guidance materials to assist local jurisdictions in developing their comprehensive plans. In addition, there are growth management programs within most state agencies to assist local jurisdictions in developing comprehensive plans. These programs vary in formalization. Many of the agencies have some staff assigned to review and comment on comprehensive plan development. Some of the agencies have training and outreach components, but, in times of fiscal constraint, many of these efforts have diminished considerably. Regional staff is ideally situated to work with local jurisdictions in comprehensive plan updates.

Appendix D

Natural Resource Lands Designation

“It is significant that the Act required cities and counties to identify and conserve resource lands and to identify and protect critical areas before the date that IUGAs had to be adopted. This sequence illustrates a fundamental axiom of growth management: “the land speaks first.” Only after a county’s agricultural, forestry, and mineral resource lands have been identified and actions taken to conserve them, and its critical areas, including aquifers, are identified and protected, is it then possible and appropriate to determine where, on the remaining land, urban growth should be directed pursuant to RCW 36.70A.110.” *Bremerton v. Kitsap County*, CPSGMHB No. 95-3-0039c (Final Decision and Order, October 6, 1995)

The designation process may either include identification in the field and then mapped or designation by performance standards or definition. WAC 365-190-040 recommends the latter as the preferable approach. This is the most prevalent approach as it allows for consistent application of standards in the face of changing environmental conditions; it is also the most precautionary approach.

Agricultural Lands

In classifying agricultural lands of long-term significance for the production of food or other agricultural products, jurisdictions shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These categories incorporate consideration of the growing capacity, productivity, and soil composition of the land [WAC 365-190-050(1)].

In defining categories of agricultural lands of long-term commercial significance for agricultural production, jurisdictions should consider using the classification of prime and unique farmland soils as mapped by the Soil Conservation Service. The WAC suggests that if a county or city chooses to not use these categories, the rationale for that decision must be included in its next annual report to department of community development (now known as the Department of Community, Trade and Economic Development) [WAC 365-190-050(2)]. The annual report was a requirement in the early days of GMA. These reports are not longer required. Now we would advise a local jurisdiction to describe the rationale for using a different methodology within the Findings of Fact in the adopting ordinance for the agricultural development regulations.

Counties and cities may further classify additional agricultural lands of local importance. This should include consultation with the board of the local conservation district and the local agriculture stabilization and conservation service committee [WAC 365-190-050(3)].

Forest land resources

In classifying forest lands, jurisdictions should use the private forest land grades of the Department of Revenue (WAC 458-40-530). This system incorporates consideration of growing capacity, productivity, and soil composition of the land. Forest lands of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation as forest land [WAC 365-190-060].

Each county and city shall determine which land grade constitutes forest lands of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations [WAC 365-190-060].

Mineral resource lands

Jurisdictions shall identify and classify aggregate and mineral resource lands from which the extraction of minerals occurs or can be anticipated. Other proposed land uses within these areas may require special attention to ensure a future supply of aggregate and mineral resource material, while maintaining a balance of land uses [WAC 365-190-070(1)].

Areas shall be classified as mineral resource lands based on geologic, environmental, and economic factors, existing land uses, and land ownership. Jurisdictions should classify lands with long-term commercial significance for extracting at least the following minerals: sand, gravel, and valuable metallic substances. Other minerals may be classified as appropriate [WAC 365-190-070(2)].

In classifying these areas, jurisdictions should consider maps and information on location and extent of mineral deposits provided by the Washington State Department of Natural Resources (DNR) and the United States Bureau of Mines. Additionally, the DNR has detailed minerals classification system counties and cities may choose to use [WAC 365-190-070(2)].

Jurisdictions should consider classifying known and potential mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded [WAC 365-190-070(2)].

Appendix E

Critical Area Designation

Growth Management Services is recommending local jurisdictions include policies within their Land Use Element stating that best available science will be included in development regulation, then either incorporate a citations list of the best available science used in the adopting ordinance or as an appendix to the development regulation. Jurisdictions may either hire professionals to determine the science specific to their jurisdiction or they may use a more precautionary approach and utilize information developed by known credible sources, such as state resource agencies.

Wetlands

In designating wetlands for regulatory purposes, jurisdictions are required to use the definition of wetlands in RCW 36.70A.030(22). Jurisdictions are requested and encouraged to make their actions consistent with the intent and goals of "protection of wetlands," Executive Orders 89-10 and 90-04 as they exist on September 1, 1990. Additionally, jurisdictions should consider wetlands protection guidance provided by Ecology including the model wetlands protection ordinance [WAC 365-190-080(1)].

Jurisdictions shall consider a wetlands rating system to reflect the relative function, value and uniqueness of wetlands in their jurisdictions. In developing wetlands rating systems, jurisdictions should consider the Washington state four-tier wetlands rating system; wetlands functions and values; degree of sensitivity to disturbance; rarity; and ability to compensate for destruction or degradation. If a jurisdiction chooses to not use the state four-tier wetlands rating system, they should work with both Ecology and WDFW to ensure the rating system will afford adequate protection to protect the functions and values of the wetland [WAC 365-190-080(1)].

Jurisdictions may use several sources of information to identify wetlands including the National Wetlands Inventory. Jurisdictions should consider using the methodology in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, cooperatively produced by the United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Soil Conservation Service, and United States Fish and Wildlife Service, that was issued in January 1989, and regulatory guidance letter 90-7 issued by the United States Corps of Engineers on November 29, 1990, for regulatory delineations [WAC 365-190-080(1)].

Fish and wildlife habitat conservation areas

Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state [WAC 365-190-080(5)].

Fish and wildlife habitat conservation areas include areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or state natural area preserves and natural resource conservation areas [WAC 365-190-080(5)].

Jurisdictions may consider the following when classifying and designating these areas: creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces; level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats); protecting riparian ecosystems; evaluating land uses surrounding ponds and fish and wildlife habitat areas that may negatively impact these areas; establishing buffer zones around these areas to separate incompatible uses from the habitat areas; and restoring of lost salmonid habitat [WAC 365-190-080(5)].

Jurisdictions should classify seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term [WAC 365-190-080(5)].

Jurisdictions should determine which habitats and species are of local importance. Habitats and species may be further classified in terms of their relative importance [WAC 365-190-080(5)].

Jurisdictions may use information prepared by the WDFW to classify and designate locally important habitats and species. Priority habitats and priority species are being identified by the Department of Wildlife for all lands in Washington State. While these priorities are those of the department, they and the data on which they are based may be considered by jurisdictions [WAC 365-190-080(5)].

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Jurisdictions should consider both commercial and recreational shellfish areas. Jurisdictions should at least consider the Washington Department of Health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas [WAC 365-190-080(5)].

Jurisdictions shall classify kelp and eelgrass beds, identified by DNR aquatic lands division and the Department of Ecology. Though not an inclusive inventory, locations of kelp and eelgrass beds are compiled in the *Puget Sound Environmental Atlas, Volumes 1 and 2*. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260 and the *Puget Sound Environmental Atlas* [WAC 365-190-080(5)].

Jurisdictions may consider the following factors when classifying waters of the state as fish and wildlife habitats species present which are endangered, threatened or sensitive, and other species of concern; species present which are sensitive to habitat manipulation; historic presence of species of local concern; existing surrounding land uses that are incompatible with salmonid habitat; presence and size of riparian ecosystems; existing water rights; and the intermittent nature of some of the higher classes of waters of the state [WAC 365-190-080(5)].

Lakes, ponds, streams, and rivers planted with game fish includes game fish planted in these water bodies under the auspices of a federal, state, local, or tribal program or which supports priority fish species as identified by the Department of Wildlife [WAC 365-190-080(5)].

Aquifer recharge areas

Where aquifers and their recharge areas have been studied, jurisdictions should use this information as the base for classifying and designating these areas [WAC 365-190-080(2)].

Where no specific studies have been done, counties and cities may use existing soil and surficial geologic information to determine where recharge areas are. To determine the threat to ground water quality,

existing land use activities and their potential to lead to contamination should be evaluated [WAC 365-190-080(2)].

Counties and cities shall classify recharge areas for aquifers according to the vulnerability and susceptibility of the aquifer.

Classification strategy for recharge areas should be to maintain the quality of the ground water, with particular attention to recharge areas of high susceptibility. In recharge areas that are highly vulnerable, studies should be initiated to determine if ground water contamination has occurred. Classification of these areas should include consideration of the degree to which the aquifer is used as a potable water source, feasibility of protective measures to preclude further degradation, availability of treatment measures to maintain potability, and availability of alternative potable water sources [WAC 365-190-080(2)].

Examples of areas with a critical recharging effect on aquifers used for potable water may include: sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act; areas established for special protection pursuant to a ground water management program, chapters 90.44, 90.48, and 90.54 RCW, and chapters 173-100 and 173-200 WAC; areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act; and other areas meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" in these guidelines [WAC 365-190-080(2)].

Frequently flooded areas

Classifications of frequently flooded areas should include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program [WAC 365-190-080(3)].

Jurisdictions should consider the following when designating and classifying frequently flooded areas effects of flooding on human health and safety and to public facilities and services. Available documentation includes federal, state, and local laws, regulations, and programs, local studies and maps and federal flood insurance programs. Additional issues to consider include the future flow floodplain, defined as the channel of the stream and that portion of the adjoining floodplain that is necessary to contain and discharge the base flood flow at build out without any measurable increase in flood heights; the potential effects of tsunamis, high tides with strong winds, sea level rise resulting from global climate change, and greater surface runoff caused by increasing impervious surfaces [WAC 365-190-080(3)].

Geologically hazardous areas

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided. This distinction should be considered [WAC 365-190-080(4)].

Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area: erosion hazard; landslide hazard; seismic hazard; or areas subject to other geological events such as coal mine hazards and volcanic hazards including: mass wasting, debris flows, rockfalls, and differential settlement [WAC 365-190-080(4)]. The subsequent paragraphs within this section provide detailed suggestions on identifying and classifying geological hazardous areas.

Other Guidance for Classifying and Protecting Critical Areas

CTED developed *Citations of Recommended Sources of Best Available Science* for jurisdictions to find best available science to include within policies and development regulations. This manual identifies sources of information on the various critical areas that local jurisdictions can refer to when developing their development regulations. The citations manual was developed with the assistance of various state agencies and will be periodically updated. In addition to the citations manual, CTED developed a model critical areas ordinance and a subsequent guidebook is being developed (due out Summer 2003).

Appendix F

Comprehensive Plan Comprehensive Plan Design Guidance

WAC 365-195-300 suggests the overall design of the comprehensive plan include:

- Planning horizon should be at least twenty years;
- A separate section addressing the statutory goals and how the plan deals with each of them;
- County-wide planning policy integration should be made apparent;
- Each plan should contain a future land use map or maps;
- The descriptive text covering objectives, principles, and standards used to develop the comprehensive plan will be expressive of the vision of the future of the planning entity. The text should articulate community values derived from the visioning and other citizen participation processes. The terms objectives, principles, and standards relate to methods chosen to meet planning goals or measurable steps on the path toward achieving such goals. The precise meaning of these terms should be locally defined; and
- Jurisdictions are encouraged to include at the beginning of their comprehensive plans a section which summarizes, with graphics and a minimum of text, how the various pieces of the plan fit together.

Land Use Element

RCW Requirements RCW 36.70A.070(1)

A Land Use Element designates the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The Land Use Element shall include population densities, building intensities, and estimates of future population growth. The Land Use Element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and stormwater run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

WAC Guidance (365-195-305)

- An integration of relevant county-wide planning policies (and, where applicable, multi-county planning policies) into the local planning process;
- Identification of the existing general distribution and location of various land uses;
- Identification of the approximate acreage and general range of density or intensity of existing uses;
- Estimation using available data of the future population growth for the planning area and a projection of the level of commercial, industrial, and residential development likely to be experienced over at least the next twenty years;
- Selection of commercial, industrial, and residential densities sought to be achieved and their distribution for the purposes of accommodating the anticipated growth;
- Inventory of vacant, partially-used and under-utilized land;
- Analysis of the extent to which existing buildings and housing, together with vacant, partially-used and under-utilized land can support anticipated growth at the densities selected;
- Preparation of an implementation strategy for accomplishing the densities and distribution sought. To the extent that greater intensity of development is proposed, the strategy should include a description of the general range of physical forms contemplated for structures which will accommodate the new growth;

- Identification of the approximate spatial requirements for capital facilities (including transportation facilities) and utilities needed to support the planned level of development;
- Generalized location and estimation of quantity of land needed for utility corridors, open space corridors, critical areas, and natural resource lands to be included within the planning area;
- Preparation of the future land use map on the basis of the total analysis performed;
- Reevaluation of this scheme in light of the projected capacity for financing the needed capital facilities over the planning period and an assessment of whether the densities and distribution of growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation;
- Creation of a ground water protection strategy, integrating the relevant planning requirements of other statutes, consistent with the designation of areas with a critical recharging effect on aquifers used for potable water. Consideration should be given to the adoption of nondegradation as a ground water protection goal;
- Consultation with neighboring jurisdictions and state agencies to formulate a cooperative, integrated, watershed based approach to identified pollution problems caused by drainage, flooding, stormwater runoff, failing septic systems, agricultural runoff, and other nonpoint sources, taking advantage of existing plans dealing with these subjects. To the extent that county-wide planning policies are relevant, they should follow in arriving at interjurisdictional solutions; and
- A schedule for the phasing of the development contemplated consistent with the availability of capital facilities as provided in the Capital Facilities Element.

Other Guidance

Preparing the Heart of Your Comprehensive Plan: A Land Use Element Guide, by the Washington State Department of Community Development (a precursor to the Department of Community, Trade and Economic Development), April 1993, is a guidance document used to assist local jurisdictions in the development of their Land Use Elements. This guidance document provides procedural advice and substantive advice. For example, an Appendix to this document details a variety of ways a jurisdiction may assign different land uses (parks, industrial, commercial, and residential) based on its population.

Transportation Element

RCW 36.70A.070(6) requires a Transportation Element to include the following:

- Land use assumptions used in estimating travel;
- Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the Department of Transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land use decisions on state-owned transportation facilities;
- Facilities and services needs, including:
 - An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdiction boundaries;
 - Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;
 - For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the

Department of Transportation's six-year investment program. The concurrency requirements of do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

- Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;
- Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;
- Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;
- Finance, including:
 - An analysis of funding capability to judge needs against probable funding resources;
 - A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the six-year improvement program developed by the Department of Transportation as required by RCW 47.05.030;
 - If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;
- Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions; and
- Demand-management strategies.
- After adoption of the comprehensive plan, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the Transportation Element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. "Concurrent with the development" means improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years [RCW 36.70A.070(6)].
- The Transportation Element must be consistent between all jurisdictions (cities, counties, public transportation, regional transportation offices, and the state [RCW 36.70A.070(6)]).

WAC Guidance

The following steps are recommended in preparing the Transportation Element and local and regional transportation goals and policies for a variety of transportation modes. The Transportation Element should include a discussion of how the Transportation Element implements the Land Use Element, how the Transportation and Land Use Elements are consistent, and how the Transportation Element is consistent with the regional transportation plan. It should also include a discussion concerning regional development strategies, which promote the regional transportation plan and an efficient transportation system. The plan should include inventories, maps, a capacity analysis and a consideration of the current and projected surrounding land uses should be made with respect to uses that are compatible and available for projected transportation needs.

If the planning area is within a National Ambient Air Quality Standards nonattainment area, compliance with the Clean Air Act Amendments of 1990 is required. The following should be included in the Transportation Element of the comprehensive plan as applicable to locally generated mobile sources of pollutants: A map of the area designated as the nonattainment area for ozone, carbon monoxide, and particulate matter (PM10); a discussion of the severity of the violation(s) contributed by transportation-related sources causing nonattainment and a description of measures that will be implemented consistent with the state implementation plan for air quality, in order to comply with the national standards for the air, land, water, and transit sections of the Transportation Element. Local jurisdictions should refer to local air quality agencies and metropolitan planning organizations for assistance.

Provide a definition of the level of service (LOS) to be adopted for the transportation system that includes at least arterials and transit routes. The definition of level of service is not restricted to the traditional *Highway Capacity Manual* approach, but could include district, area-wide, corridor, or other nontraditional level of service standards. Provide an inventory of the current level of service of at least arterial and transit routes. Adopted level of service standards should reflect access, mobility, mode-split, or capacity goals for the transportation facility depending upon the surrounding development density and community goals, and should be developed in consultation with transit agencies serving the planning area.

System expansion needs should include considerations for repair, replacement, or enhancement, and/or expansion.

Transportation system management (TSM) and transportation demand management (TDM) implementation measures can include, but not necessarily be limited to: signal coordination, channelization, high occupancy vehicle (HOV) lanes, ridesharing, trip substitution, trip shifting, increased public transportation, parking policies and high occupancy subsidy programs. Provision should be made for evaluating the effectiveness of these strategies, and funding sources should be identified.

The finance subelement should include, but not necessarily be limited to:

- Results of the identification study of current and projected deficiencies;
- Development of cost estimates to alleviate deficiencies;
- Assessment of revenue forecasts/shortfalls;
- Development of financing policies; and
- Development of a financing schedule which matches projects and funding availability.

If sufficient public and/or private funding cannot be found, land use assumptions will be reassessed to ensure that level of service standards will be met, or level of service standards will be adjusted.

Intergovernmental coordination:

- Jurisdictions should assess the impacts of their transportation and land use decisions on adjacent jurisdictions. Impacts of those decisions should be identified and discussion of strategies to address inconsistencies should be included.
 - A discussion of how the local transportation and land use goals relate to adjacent jurisdictions' transportation and land use goals, county-wide planning policies, regional land use and transportation strategies, and statewide goals outlined in the act.
 - Local jurisdictions should refer to the Washington State transportation policy plan for guidance on statewide transportation policy.
 - Local jurisdictions should refer to the regional transportation plan produced by the regional transportation planning organization for guidance concerning the designated regional transportation system. Local jurisdictions should also define their community's role in the

regional transportation and land use strategy, and produce transportation and land use plans and development regulations, which promote that role.

- Local jurisdictions should refer to the responsible transportation agencies for information concerning current and projected plans for air, land, and water transportation facilities and services. Local jurisdictions and agencies responsible for air, land, and water transportation facilities and services should cooperate in identifying and resolving land use and transportation linkage issues.
- All transportation projects, which have an impact on the regional transportation system, must be consistent with the regional transportation plan as defined by RCW 47.80.030. A regional transportation planning organization shall certify that the Transportation Elements of the adopted county, city, and town comprehensive plans within the region conform with RCW 36.70A.070. Regional transportation plans, state transportation plans, and county and city comprehensive plans shall be consistent with one another.
- Traffic forecasts should be based on adopted regional growth strategies, the regional transportation plan, and comprehensive plans within the region to ensure consistency between jurisdictions. The forecast of at least ten years of travel demand should include vehicular, transit, and nonmotorized modes of transportation.
- The Washington State Department of Transportation and the transportation commission will develop a state transportation plan as required by RCW 47.01.071, and identify and jointly plan improvements and strategies within corridors of regional or statewide significance coordinated and consistent with the RTPO's.

Local jurisdictions should refer to the *Systems Plan* produced by the Department of Transportation for service objectives on state-owned transportation facilities, proposed improvements, and identification of deficiencies for the state-owned transportation facilities. The Department of Transportation should be involved with the regionally coordinated effort to set level of service standards for arterials and transit routes.

- Key coordination efforts between interested public, private, and citizen groups should include: Transportation plan development; identification of needs; land use coordination; capital program development; prioritization of projects, financial plan, LOS standards development; capacity accounting procedures; development review process; timing of concurrency review; analysis methods; legal requirements (vesting, appeals); concurrency management system ordinance; LOS monitoring.

Capital Facilities Element

The Capital Facilities Element shall contain an inventory of existing capital facilities owned by public entities – showing the locations and capacities of the capital facilities; a forecast of the future needs for such capital facilities; the proposed locations and capacities of expanded or new capital facilities; at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identify sources of public money for such purposes; and a requirement to reassess the Land Use Element if probable funding falls short of meeting existing needs and to ensure that the Land Use Element, Capital Facilities Element, and financing plan within the Capital Facilities Element are coordinated and consistent [RCW 36.70A.070(3)].

The Capital Facilities Element should serve as a check on the practicality of achieving other elements of the plan. The following steps are recommended in preparing the Capital Facilities Element:

- Inventory of existing capital facilities showing locations and capacities, including an inventory of the extent to which existing facilities possess presently unused capacity. Capital facilities involved

should include water systems, sanitary sewer systems, stormwater facilities, schools, parks and recreational facilities, police, and fire protection facilities;

- Selection of levels of service or planning assumptions for the various facilities to apply during the planning period (20 years or more) and which reflect community goals;
- Forecast of the future needs for such capital facilities based on the levels of service or planning assumptions selected and consistent with the growth, densities and distribution of growth anticipated in the Land Use Element;
- Creation of a six-year capital facilities plan for financing capital facilities needed within that time frame. Projected funding capacities are to be evaluated, followed by the identification of sources of public or private funds for which there is reasonable assurance of availability. The six-year plan should be updated at least biennially so that financial planning remains sufficiently ahead of the present for concurrency to be evaluated;
- Needs for capital facilities should be dictated by the phasing schedule set forth in the Land Use Element; and
- Provision should be made to reassess the Land Use Element and other elements of the plan periodically in light of the evolving capital facilities plan. If the probable funding for capital facilities at any time is insufficient to meet existing needs, the Land Use Element must be reassessed. At the same time funding possibilities and levels of service might also be reassessed. The plan should require that as a result of such reassessment, appropriate action must be taken to ensure the internal consistency of the land use and capital facilities portions of the plan. The plan should set forth how, if at all, pending applications for development will be affected while such a reassessment is being undertaken [WAC 365-195-315].

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